

EXHIBIT D

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

vs.

No. WDQ-02-CV-648

LA WEIGHT LOSS,

Defendant.

Deposition of
LAURINDA BEAVERS
January 26, 2006

Reported by:
CARRIE PEDERSON
CSR No. 4373, RPR, RMR, CRR
Philadelphia Job No. 182146
Sacramento Job No. 51354

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10:10	1 interviewing or hiring anymore. I'll	10:13	1 end of the state, I was doing it at the other, so
10:10	2 occasionally -- if I'm in a location and someone	10:13	2 I would do it for the whole day there, but it's
10:10	3 needs a second interview done or I can be	10:13	3 not as often as it used to be.
10:10	4 helpful, I will, but I only usually participate	10:13	4 Q And is this the same basic level of
10:10	5 in the interviews of the upper management, which	10:13	5 participation, what you've just described, for
10:10	6 would be managers, area supervisors.	10:13	6 the San Francisco market after it opened?
10:11	7 Q Do you have a practice of participating	10:13	7 A Yes.
10:11	8 in the interviews for all of the managers?	10:13	8 Q Consistency. Means we'll be here for
10:11	9 A No, I don't necessarily do all the	10:13	9 less time today.
10:11	10 managers.	10:13	10 A And I'm doing the same thing starting in
10:11	11 Q Other than availability, is there a	10:13	11 LA.
10:11	12 method for choosing which ones to interview?	10:14	12 Q Did Ms. Pope transfer out here
10:11	13 A Well, for Sacramento, at this point we're	10:14	13 specifically to be the regional in San Francisco?
10:11	14 promoting most people from within.	10:14	14 A Yes, she did, with the intent of then
10:11	15 Q Uh-huh.	10:14	15 transferring to Los Angeles to be the divisional
10:11	16 A So we find out who's interested, have an	10:14	16 manager there.
10:11	17 interview, that's normally conducted by the area	10:14	17 Q Has that happened?
10:11	18 supervisor and the regional. Once in awhile I	10:14	18 A Yes.
10:11	19 will be there for that, but it's very, very rare.	10:14	19 Q At any time since you began your
10:11	20 Q Do you interview all of the area	10:14	20 employment at LA Weight Loss, have you
10:11	21 supervisor candidates?	10:14	21 personally -- first of all, let me make sure
10:11	22 A Yes, I have.	10:14	22 we're on the same page as far as terminology.
10:11	23 Q Do you still do any interviewing for	10:14	23 I'm going to refer to "training" --
10:11	24 counselors?	10:14	24 A Okay.
10:12	25 A Again, very, very rarely.	10:14	25 Q -- the word called "training," and what
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10:12	1 Q You rely on your regionals and your area	10:14	1 I'm referring to there is a sort of -- regardless
10:12	2 supervisors to do that?	10:15	2 of how many attendees, a sort of formal classroom
10:12	3 A Correct.	10:15	3 type instruction.
10:12	4 Q With respect to the Seattle market, is	10:15	4 A Okay.
10:12	5 this also true, that you -- well, let's break it	10:15	5 Q I'll also use a term called "coaching,"
10:12	6 down.	10:15	6 and when I say "coaching," I mean a sort of
10:12	7 For the Seattle market, is it also true	10:15	7 one-on-one on the job providing information about
10:12	8 that after the market opened, that you have still	10:15	8 what someone should be doing.
10:12	9 conducted interviews for all the area supervisor	10:15	9 A I understand.
10:12	10 candidates?	10:15	10 Q Okay. Since you started at LA Weight
10:12	11 A Yes, I believe I have.	10:15	11 Loss, have you personally conducted any training
10:12	12 Q And is it also true that you have	10:15	12 on hiring?
10:12	13 occasional participation at the center manager	10:15	13 A Yes.
10:12	14 level conducting interviews?	10:15	14 Q When?
10:12	15 A Yes.	10:15	15 A I don't recall the exact time.
10:12	16 Q And is it also true that after Seattle	10:15	16 Q Where?
10:12	17 opened and all the first employees were in place,	10:15	17 A In Seattle, Sacramento.
10:13	18 that your interviewing at the assistant level or	10:15	18 Q Who were the attendees?
10:13	19 below has tapered off?	10:15	19 A Area supervisors, regionals.
10:13	20 A Yes.	10:16	20 Q Within the general category hiring, what
10:13	21 Q So you rarely do that?	10:16	21 subject matter was covered?
10:13	22 A I rarely do. When I would would be in a	10:16	22 A How to review a resume, how to follow
10:13	23 situation where we were having an open house and	10:16	23 the Selecting The Best guidelines for the
10:13	24 we had interviews set up and we needed an extra	10:16	24 questions that are outlined there to ask, the
10:13	25 person, maybe the regional was doing it at one	10:16	25 legality issues, what you're not to ask, how to

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<p>10:16 1 probe with answers to questions. 10:16 2 Q Anything else? 10:16 3 A How the process works with the open house 10:17 4 and the internal recruitment. 10:17 5 Q Anything else? 10:17 6 A Not that I can remember. 10:17 7 Q With respect to the legality subject 10:17 8 matter, what did you teach people to not ask? 10:17 9 A Pretty much what was outlined in the 10:17 10 Selecting The Best training, it's all in there, 10:17 11 just answered any additional questions they had 10:17 12 of "what ifs" and maybe would point out some 10:17 13 things that I had run into in the past. 10:17 14 Q I won't make this an exhibit, but this 10:17 15 was previously marked Bernard Exhibit 7. I just 10:17 16 want the witness to look at it for identification 10:17 17 purposes. Oop. Wrong copy. Let me give you a 10:18 18 different copy. 10:18 19 A I'm like, "Someone wrote in this one." 10:18 20 Q Yeah. 10:18 21 A It's okay. Mine has writing in it, too, 10:18 22 I'm sure, at one point. 10:18 23 Q These are answers to questions given to 10:18 24 me by another witness, what that was. Okay. 10:19 25 A Yes, I'm familiar with it.</p>	<p>10:20 1 A It's generally when they're new in their 10:20 2 position. It's part of the training process. 10:20 3 Q So it's reinforcement of the training 10:21 4 that you've given, for example? 10:21 5 A Correct. 10:21 6 Q Have all of the individuals who have held 10:21 7 position of area supervisor and above in 10:21 8 Sacramento received training on Selecting The 10:21 9 Best? Do you know? 10:21 10 A No, I don't know. 10:21 11 Q Do you use Selecting The Best when you do 10:21 12 coaching, or is it more just sort of informal, 10:21 13 verbal? 10:21 14 A I use the principles from Selecting The 10:21 15 Best. 10:21 16 Q I see. 10:21 17 A Some of them could be more informal, 10:21 18 especially at this point we're growing, even 10:21 19 continual. I just promoted two new area 10:22 20 supervisors, and I'm not sure if they've had the 10:22 21 training part of it at this point. 10:22 22 Q Okay. But you articulate some of the 10:22 23 principles from Selecting The Best in your 10:22 24 coaching? 10:22 25 A Absolutely.</p>
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<p>10:19 1 Q Okay. So you've had a chance to review 10:19 2 Bernard Exhibit 7? 10:19 3 A Yes. 10:19 4 Q And is this the instructional materials 10:19 5 that you were referring to in your prior 10:19 6 testimony? 10:19 7 A Yes. 10:19 8 Q Okay. I may ask you some more questions 10:19 9 about that, but we'll leave that for now. 10:19 10 Other than that training, do you recall 10:20 11 giving any other trainings on hiring? 10:20 12 A Trainings, no. 10:20 13 Q Okay. Now I assume that you've given 10:20 14 coaching. 10:20 15 A Correct. 10:20 16 Q Okay. How frequently have you done that? 10:20 17 A Quite frequently when I'm in the process 10:20 18 of interviewing, when I'm actively involved in 10:20 19 it. 10:20 20 Q What level of employees do you give 10:20 21 coaching to? 10:20 22 A Regionals, area supervisors. 10:20 23 Q Do you recall there being any particular 10:20 24 events that precipitated you giving coaching to 10:20 25 employees?</p>	<p>10:22 1 Q Are you aware of any training materials 10:22 2 on hiring that LA Weight Loss has published since 10:22 3 Selecting The Best? 10:22 4 A No. 10:22 5 Q Do you ever have occasion to have 10:22 6 coaching discussions with your subordinates on 10:22 7 the topic of equal employment opportunity? Have 10:22 8 you ever had occasion to have that kind of 10:22 9 discussion? 10:22 10 A Not that I can remember. Specifically to 10:22 11 equal opportunity that isn't addressed in a 10:23 12 general form? 10:23 13 Q In what general form? 10:23 14 A Just what the guidelines are? I guess -- 10:23 15 can you ask the question differently? 10:23 16 Q Yeah. Do you recall having any 10:23 17 discussions at any point outside of a training -- 10:23 18 A Okay. 10:23 19 Q -- with any of your regional or area 10:23 20 supervisors on the topic of equal employment 10:23 21 opportunity? 10:23 22 A No, not outside of a training or coaching 10:23 23 circumstance. 10:23 24 Q Do you recall in a coaching circumstance 10:23 25 having that kind of discussion about EEO?</p>

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10:23 1 A I don't remember specifically, but I can
 10:23 2 recall if I'm doing an interview with another
 10:23 3 employee and they would start to maybe ask a
 10:23 4 question that could lead to inappropriateness,
 10:23 5 that I would give them the feedback that, "We
 10:23 6 can't go there further."
 10:24 7 Q Do you recall any particular question
 10:24 8 that caused you to raise that issue?
 10:24 9 A I do. I can't remember who it was with,
 10:24 10 but it was looking at an area supervisor, and I
 10:24 11 can't remember which one, was recognized a high
 10:24 12 school where an applicant had gone and her
 10:24 13 question was innocently, "Oh, when did you
 10:24 14 graduate?"
 10:24 15 Q Uh-huh.
 10:24 16 A And I had to say, "You know, you can't
 10:24 17 really go that way because that could indicate
 10:24 18 age and could get into an area of
 10:24 19 discrimination," so...
 10:24 20 Q Yeah, when they graduated from high
 10:24 21 school is a fair statement of age.
 10:24 22 A Exactly. So those are the kinds of
 10:24 23 situations where in a training coaching would be
 10:24 24 given.
 10:24 25 Q Are you aware of any of your subordinates

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10:24 1 in your market receiving formal training on
 10:24 2 hiring from any source other than yourself?
 10:24 3 A Yes.
 10:24 4 Q What source?
 10:25 5 A It would be through our conferences that
 10:25 6 we have.
 10:25 7 Q The annual conferences?
 10:25 8 A Annual sales conference or supervisors
 10:25 9 conference, or I believe we did — they did
 10:25 10 receive training, I wasn't at the training, but
 10:25 11 just recently in Chicago at the new training
 10:25 12 center.
 10:25 13 Q Have you received any training yourself
 10:25 14 at LA Weight Loss on hiring?
 10:25 15 A Yes.
 10:25 16 Q From whom?
 10:25 17 A I don't recall who did the first training
 10:25 18 I attended. It was in one of our conferences in
 10:25 19 Bermuda in '03, and then another training would
 10:25 20 be in Las Vegas in — I believe it was
 10:26 21 December '04, a lot of other just coaching
 10:26 22 through Elaine or Vahan.
 10:26 23 Q Did any of the annual conferences contain
 10:26 24 an equal opportunity component, the training?
 10:26 25 A Yes.

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10:26 1 Q What was said about EEO at those
 10:26 2 conferences?
 10:26 3 A It was a review of the guidelines, more
 10:26 4 general review of the guidelines, we had
 10:26 5 workbooks that outlined everything.
 10:26 6 Q Were there workbooks dedicated to equal
 10:26 7 employment opportunity only?
 10:26 8 A I don't remember that specifically.
 10:26 9 Q Do you recall if the materials — what
 10:26 10 they looked like, if they were one page, five
 10:26 11 pages, 20?
 10:26 12 A No, I don't. I don't remember.
 10:26 13 Q And when you say "general guidelines,"
 10:27 14 are you referring to, "We don't discriminate on
 10:27 15 the basis of X, Y and Z"?
 10:27 16 A Yes.
 10:27 17 Q "And A, B and C"?
 10:27 18 A Yes.
 10:27 19 Q And was there also discussion that
 10:27 20 prohibited questions?
 10:27 21 A Yes.
 10:27 22 Q Do you recall there being discussion of
 10:27 23 any other topics beyond prohibited questions
 10:27 24 that, "We don't discriminate on the basis of X, Y
 10:27 25 and Z"?

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10:27 1 A Not that I remember, no.
 10:27 2 Q What kind of coaching have you received
 10:27 3 from Mr. Karian, K-A-R-I-A-N?
 10:27 4 A I have done interviews with him, so I was
 10:27 5 able to see the type of questions he would ask
 10:28 6 for responses, he was able to sit with me while I
 10:28 7 did an interview, we were able to compare how we
 10:28 8 would rate, on our rating sheets, the interview.
 10:28 9 Q Okay. Anything else?
 10:28 10 A No.
 10:28 11 Q What kind of questions did Mr. Karian ask
 10:28 12 during these interviews?
 10:28 13 A Sales-related questions, questions about
 10:28 14 the applicant's background as far as positions
 10:28 15 they've held. Those are two that I can remember.
 10:28 16 Q Any others?
 10:28 17 A Not that I can recall, no.
 10:28 18 Q Did you ever discuss the topic of empathy
 10:29 19 in a candidate with Mr. Karian?
 10:29 20 A With?
 10:29 21 Q With Mr. Karian?
 10:29 22 A No, not specifically that I can remember.
 10:29 23 Q Do you recall Mr. Karian ever mentioning
 10:29 24 empathy as something to look for?
 10:29 25 A Not that I can remember.

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ESQUIRE DEPOSITION SERVICES

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12:30 1 A In San Pablo.
 12:30 2 Q Okay.
 12:30 3 A Which may be after the dates you're even
 12:30 4 referring to.
 12:30 5 Q San Pablo is —
 12:30 6 A In the East Bay.
 12:30 7 Q Yeah. Okay. So erring on the side of
 12:30 8 caution in terms of not underestimating the
 12:30 9 number of males, it appears that either by first
 12:30 10 name or by specific listing as male, that there
 12:30 11 were about 11 males during that time frame in
 12:30 12 those two markets, at some point during those
 12:30 13 two — that time period. Does that figure of 11
 12:30 14 sound off base to you, too low, too high, or does
 12:30 15 it sound about right?
 12:30 16 A If it's in the payroll records, it's most
 12:30 17 likely pretty correct.
 12:31 18 Q Okay.
 12:31 19 A I don't personally have my own records
 12:31 20 that indicate that it's higher or lower.
 12:31 21 Q Okay. Do you have any information that
 12:31 22 would cause you to believe it's been higher than
 12:31 23 that?
 12:31 24 A No.
 12:31 25 Q Okay. So if you do the math, you know, I

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12:31 1 won't ask you to do the math, I'll represent to
 12:31 2 you that if you figure out the percentage, it
 12:31 3 ends up being about 3.7 percent male during that
 12:31 4 time period, and I guess my question to you is do
 12:31 5 you have any sense of why it's that low?
 12:31 6 A No.
 12:31 7 Q You would agree with me that males make
 12:31 8 up about half the population in the United States
 12:32 9 roughly?
 12:32 10 A I believe below half, but —
 12:32 11 Q Well over 40 percent; would you agree
 12:32 12 with that?
 12:32 13 A Yes.
 12:32 14 Q Okay. Do you have any sense of what
 12:32 15 proportion of the candidates who have applied for
 12:32 16 jobs in your market have been male? Do you have
 12:32 17 any sense of that?
 12:32 18 A It's definitely a lot lower than females
 12:32 19 that apply, but I don't have specific statistics.
 12:32 20 Q To your knowledge, has anyone made an
 12:32 21 effort to track that?
 12:32 22 A To my knowledge, no.
 12:32 23 Q It doesn't mean someone hasn't done it?
 12:32 24 A Yeah.
 12:32 25 Q I'm just asking whether you know.

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12:32 1 A Yeah, I don't know that.
 12:32 2 Q Okay. About what proportion of the
 12:32 3 candidates who come to the open houses are female
 12:32 4 in your experience?
 12:32 5 A In my experience, it's probably 90
 12:32 6 percent.
 12:32 7 Q Okay. Do you have any sense of what
 12:32 8 proportion of the candidates who submit directly
 12:33 9 to human resources, to corporate are male?
 12:33 10 A No, I have no idea.
 12:33 11 Q Is the reason for that that in the field,
 12:33 12 you all get the end results of the screening
 12:33 13 process done by corporate? Correct?
 12:33 14 A Correct.
 12:33 15 Q Okay. So you only know what percentage
 12:33 16 of the candidates who have made it through the
 12:33 17 screening process are male, theoretically that's
 12:33 18 all you could know?
 12:33 19 A Correct.
 12:33 20 Q Okay. Do you have any sense of what
 12:33 21 proportion of those candidates who have made it
 12:33 22 through the corporate screening process have been
 12:33 23 male?
 12:33 24 A That come to my interviews?
 12:33 25 Q That are set up for interview by

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12:33 1 corporate.
 12:33 2 A It's similar to the ones that would come
 12:33 3 to open house percentage-wise.
 12:33 4 Q Okay. So females would make up around 90
 12:33 5 percent roughly?
 12:33 6 A Correct.
 12:33 7 Q Okay. Have you ever formed any opinions
 12:34 8 or thoughts about how it is, then, that males are
 12:34 9 such a low percentage in the employees?
 12:34 10 A I don't know if I've formed any opinions
 12:34 11 about it, but being in this industry for almost
 12:34 12 20 years now, it has always been that way, so it
 12:34 13 doesn't surprise me. It's similar to the reason
 12:34 14 that our clientele — the percentage is much
 12:34 15 higher of our clientele is women versus men. I
 12:34 16 don't really know why, it's just always been that
 12:34 17 way.
 12:34 18 Q Now the company does, to your knowledge,
 12:34 19 track demographic information on clients, for
 12:34 20 example, like, you know, their gender?
 12:34 21 A Yes.
 12:34 22 Q Okay. Do you have any sense of what the
 12:34 23 gender breakdown is of the clientele?
 12:34 24 A I don't have any of those statistics,
 12:35 25 I've never been made aware of them, but, again,

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12:35 1 just in my experience, it's usually our clientele
 12:35 2 is about -- I'd say about the same, it's about 10
 12:35 3 percent male, 90 percent female.
 12:35 4 Q Now you said in your experience as far as
 12:35 5 the employees, it's always been that way, and you
 12:35 6 mentioned you'd been in the industry for 20
 12:35 7 years, so I want to ask you, then, since you've
 12:35 8 mentioned that, was it that way at Jenny Craig?
 12:35 9 A Yes.
 12:35 10 Q Do you have any sense of why it was that
 12:35 11 way at Jenny Craig?
 12:35 12 A No.
 12:35 13 Q Are you aware of any lawsuits against
 12:35 14 Jenny Craig at any time for gender discrimination
 12:35 15 against men?
 12:35 16 A I don't remember if it was a lawsuit or a
 12:36 17 complaint. It was nothing that I had any
 12:36 18 information to. I just have a slight
 12:36 19 recollection that there could have been
 12:36 20 something, and I want to say it happened in
 12:36 21 Boston.
 12:36 22 Q Okay.
 12:36 23 A That's all I know.
 12:36 24 Q How did you come to have general
 12:36 25 information?

12:37 1 A No.
 12:37 2 Q And this is not a case about Jenny Craig,
 12:37 3 okay? I'm just trying to understand what your
 12:37 4 explanation or your thoughts were on this issue.
 12:37 5 Have you ever noted that there's any difference
 12:38 6 between male and female candidates as far as
 12:38 7 their interest in the jobs at LA Weight Loss once
 12:38 8 you get them in for the interview?
 12:38 9 A Once I get them in for the interview?
 12:38 10 Q Yeah.
 12:38 11 A No, not specifically.
 12:38 12 Q Do you discuss with candidates the job
 12:38 13 duties in the center related to measuring and
 12:38 14 weighing employees? I'm sorry. Clients?
 12:38 15 A Not in the interview normally, no.
 12:38 16 Q Okay. Have you noticed any difference at
 12:39 17 all, looking at the pool of male candidates that
 12:39 18 you've interviewed and looking -- at LA Weight
 12:39 19 Loss and looking at the pool of female candidates
 12:39 20 that you've interviewed, have you noticed any
 12:39 21 trends or any differences between those two
 12:39 22 groups?
 12:39 23 A No.
 12:39 24 Q Have you noticed -- do female candidates
 12:39 25 come in with a lower salary expectation, for

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12:36 1 A I believe it was just from another
 12:36 2 employee or someone discussing it. I don't know
 12:36 3 any of the details or if it's even true.
 12:36 4 Q Okay. So this is just information that
 12:36 5 some other employee provided to you?
 12:36 6 A Correct.
 12:36 7 Q Did that employee -- do you have any
 12:36 8 sense of why that employee was telling you that
 12:36 9 there was a possible complaint in Boston?
 12:36 10 A No, I can't even remember who would have
 12:36 11 told me that.
 12:36 12 Q Okay. That was my next question. Okay.
 12:36 13 Do you recall how you learned of this, what your
 12:36 14 position was at the time?
 12:36 15 A I really don't. It must have been maybe
 12:36 16 ten years ago.
 12:36 17 Q Were you in HR at the time?
 12:37 18 A No.
 12:37 19 Q Okay. Do you recall having any
 12:37 20 discussions at Jenny Craig about this issue, why
 12:37 21 the proportion of males seemed to be lower?
 12:37 22 A No.
 12:37 23 Q Were you ever aware of anyone engaging in
 12:37 24 discrimination at Jenny Craig on the basis of
 12:37 25 sex?

12:39 1 example?
 12:39 2 A No.
 12:39 3 Q Money is important to everybody.
 12:39 4 A Not as a -- I mean, yes, to answer your
 12:39 5 question, money is important to everybody, but in
 12:39 6 both pools, the male and the female, there's some
 12:39 7 that -- you know, it's some who have a real high
 12:39 8 expectation, some who don't, but it's not limited
 12:39 9 to one group.
 12:39 10 Q Okay. It's just a mixed bag?
 12:39 11 A Correct.
 12:39 12 Q Do you have any sense of whether male
 12:39 13 candidates are more or less qualified in general
 12:40 14 than the female candidates in applying your
 12:40 15 criteria?
 12:40 16 A No. There are some that are very
 12:40 17 qualified in each group, and there's some that
 12:40 18 are absolutely not qualified in each group.
 12:40 19 Q Can you think of anything that would
 12:40 20 explain why it is that -- you know, let's go with
 12:40 21 what you've said, you know, roughly 90 percent --
 12:40 22 and I'm not going to hold you to an exact number
 12:40 23 because you don't have the information in front
 12:40 24 of you, but in your experience, roughly 90
 12:40 25 percent of the candidates have been female. Do

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<p>03:23 1 be a dependable employee, you have to be able to</p> <p>03:23 2 do several things at once, you are responsible</p> <p>03:23 3 for profitability along with employee development</p> <p>03:24 4 and management.</p> <p>03:24 5 Q Anything else you can think of?</p> <p>03:24 6 A Not that I can think of right now.</p> <p>03:24 7 Q By the way, do you have specific</p> <p>03:24 8 recollection of Ms. Brown filling out an</p> <p>03:24 9 application form?</p> <p>03:24 10 A I don't because when I first met her, we</p> <p>03:24 11 met at a restaurant, and I did not bring an</p> <p>03:24 12 application with me. However, Stephanie Rose did</p> <p>03:24 13 her second interview, so it most likely should</p> <p>03:24 14 have or would have happened when she met with her</p> <p>03:24 15 for the second interview.</p> <p>03:24 16 Q Okay. But --</p> <p>03:24 17 A I do have recollection of Catherine not</p> <p>03:24 18 filling out an application with me.</p> <p>03:24 19 Q And is it fair to say that sitting here</p> <p>03:24 20 today, you have never seen or been told that she</p> <p>03:24 21 filled one out? Do you have personal knowledge</p> <p>03:25 22 of her filling one out?</p> <p>03:25 23 A I do not have personal knowledge, no.</p> <p>03:25 24 Q Okay. Again, that was the process at</p> <p>03:25 25 LA Weight Loss at the time --</p>	<p>03:26 1 Q We don't need to mark this, this has</p> <p>03:26 2 previously been marked as an exhibit, and I'm</p> <p>03:26 3 actually not going to want it attached, but we'll</p> <p>03:26 4 just have the witness review it, previously</p> <p>03:26 5 marked Bernard Exhibit 8. If you could take a</p> <p>03:26 6 look at that document to the extent you can read</p> <p>03:26 7 it, Ms. Beavers.</p> <p>03:26 8 A Is this a test of mine?</p> <p>03:26 9 Q And let me know if you can recognize it.</p> <p>03:27 10 A I cannot read it, and I do not recognize</p> <p>03:27 11 it, no.</p> <p>03:27 12 Q So you've never seen any pamphlet that</p> <p>03:27 13 has looked like this?</p> <p>03:27 14 A No.</p> <p>03:27 15 Q Okay. All right. You can go ahead and</p> <p>03:27 16 hand it back to me. David can keep his copy.</p> <p>03:27 17 (Discussion off the record.)</p> <p>03:27 18 BY MR. PHILLIPS:</p> <p>03:27 19 Q Have you ever heard of a training module</p> <p>03:27 20 or workbook at LA Weight Loss regarding hiring</p> <p>03:27 21 called "Hiring Right From The Start"?</p> <p>03:27 22 A Yes.</p> <p>03:27 23 Q Okay. When did you become familiar with</p> <p>03:27 24 that document?</p> <p>03:27 25 A I believe that was the title of the</p>
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<p>03:25 1 A Yes.</p> <p>03:25 2 Q -- that a candidate would fill out an</p> <p>03:25 3 application?</p> <p>03:25 4 A Absolutely.</p> <p>03:25 5 Q Other than Ms. Brown, because you met her</p> <p>03:25 6 at a restaurant, are you aware of any instance</p> <p>03:25 7 where a candidate at LA Weight Loss was</p> <p>03:25 8 interviewed, to your knowledge, where they did</p> <p>03:25 9 not fill out an application form?</p> <p>03:25 10 A Yes.</p> <p>03:25 11 Q How many times did that happen?</p> <p>03:25 12 A None an exact number. It's not very</p> <p>03:25 13 often.</p> <p>03:25 14 Q Any particular circumstances when that</p> <p>03:25 15 happens?</p> <p>03:25 16 A Yes.</p> <p>03:25 17 Q What is that?</p> <p>03:25 18 A The example I stated earlier, we're</p> <p>03:25 19 waiting for a packet to arrive at a hotel, it's</p> <p>03:25 20 late or it never gets delivered, we may -- there</p> <p>03:25 21 may not be applications for the first few</p> <p>03:25 22 candidates to fill out. We try to, during a</p> <p>03:26 23 second interview, get those, then, done, but I</p> <p>03:26 24 don't believe it always, every time, absolutely</p> <p>03:26 25 gets done.</p>	<p>03:27 1 training that we attended at the Bermuda</p> <p>03:27 2 conference in summer of '03.</p> <p>03:28 3 MR. PHILLIPS: Again, we'll not make this</p> <p>03:28 4 an exhibit, but I'll show it to the witness.</p> <p>03:28 5 This was previously marked Bernard Exhibit 5.</p> <p>03:28 6 BY MR. PHILLIPS:</p> <p>03:28 7 Q Take a look at that and let me know if</p> <p>03:28 8 you recognize it.</p> <p>03:31 9 A Okay.</p> <p>03:31 10 Q You've now had an opportunity to review</p> <p>03:31 11 Bernard Exhibit 5?</p> <p>03:31 12 A Yes.</p> <p>03:31 13 Q Do you recognize this as being the</p> <p>03:31 14 "Hiring Right From The Start" training module</p> <p>03:31 15 that you referenced earlier, or workbook?</p> <p>03:32 16 A Yes.</p> <p>03:32 17 Q And do you recall, then, receiving</p> <p>03:32 18 training on that at the Bermuda conference?</p> <p>03:32 19 A Yes.</p> <p>03:32 20 Q Did you have an understanding at the time</p> <p>03:32 21 of who that training was intended for at</p> <p>03:32 22 LA Weight Loss?</p> <p>03:32 23 A The conference was a supervisor's</p> <p>03:32 24 conference.</p> <p>03:32 25 Q Uh-huh.</p>

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<p>03:32 1 A So supervisors.</p> <p>03:32 2 Q Who conducted the training on this module</p> <p>03:32 3 in particular?</p> <p>03:32 4 A I do not remember. I was only a couple</p> <p>03:32 5 months new at the company, and there was a lot of</p> <p>03:32 6 new faces. I don't remember.</p> <p>03:32 7 Q Do you recall if it was someone in the</p> <p>03:32 8 human resources department? I'm asking if you</p> <p>03:32 9 can identify the department.</p> <p>03:32 10 A I really don't remember.</p> <p>03:32 11 Q Who was present at the training where</p> <p>03:33 12 this material was used? Was it other</p> <p>03:33 13 supervisors?</p> <p>03:33 14 A Yes. I believe it was everybody who was</p> <p>03:33 15 at the conference, if I remember correctly, it</p> <p>03:33 16 was one large training.</p> <p>03:33 17 Q Do you recall if Ms. Bussoletti was</p> <p>03:33 18 present?</p> <p>03:33 19 A Yes, she would be there.</p> <p>03:33 20 Q Do you recall if Mr. Karian was present</p> <p>03:33 21 at this training in particular?</p> <p>03:33 22 A I do not recall if he was present at that</p> <p>03:33 23 training, no.</p> <p>03:33 24 Q Do you recall if Ms. Bernard was present?</p> <p>03:33 25 A I honestly didn't know anybody besides</p>	<p>03:34 1 experiences doing human resources, is there</p> <p>03:34 2 anything you see in that document that is</p> <p>03:35 3 problematic from an EEO perspective?</p> <p>03:35 4 MR. LANDAU: Object to the question.</p> <p>03:35 5 She's not here to --</p> <p>03:35 6 THE WITNESS: I am not an expert. I</p> <p>03:35 7 don't know.</p> <p>03:35 8 BY MR. PHILLIPS:</p> <p>03:35 9 Q I'm not saying that you are an expert.</p> <p>03:35 10 What I'm asking is is there anything in Exhibit 5</p> <p>03:35 11 that you see is problematic from an EEO</p> <p>03:35 12 perspective?</p> <p>03:35 13 A Not anything I could specifically point</p> <p>03:35 14 to with complete confidence that it was not</p> <p>03:35 15 appropriate.</p> <p>03:35 16 Q Well, and I'm not asking questions about</p> <p>03:35 17 the motivation for the reasons why something is</p> <p>03:35 18 written. What I'm asking you is looking at the</p> <p>03:35 19 paper, having reviewed it, is there anything that</p> <p>03:35 20 you see that is problematic from an EEO</p> <p>03:35 21 perspective?</p> <p>03:35 22 MR. LANDAU: Same objection.</p> <p>03:35 23 BY MR. PHILLIPS:</p> <p>03:35 24 Q You can answer.</p> <p>03:35 25 A I just don't know if my EEO -- I used to</p>
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<p>03:33 1 Elaine that well. I recall Ms. Bernard was at</p> <p>03:33 2 the conference. Can I, in my mind, honestly say</p> <p>03:33 3 I picture her sitting in that seat at this</p> <p>03:33 4 conference? No, I do not recall.</p> <p>03:33 5 Q Do you recall Ms. Seigel being present?</p> <p>03:33 6 A No.</p> <p>03:33 7 Q Do you recall Ms. Fryer being present?</p> <p>03:33 8 A No.</p> <p>03:33 9 Q At Jenny Craig when you were an HR</p> <p>03:34 10 manager --</p> <p>03:34 11 A Yes.</p> <p>03:34 12 Q -- did you have responsibility for</p> <p>03:34 13 training on hiring?</p> <p>03:34 14 A Yes.</p> <p>03:34 15 Q Did you have responsibility for designing</p> <p>03:34 16 training programs regarding hiring?</p> <p>03:34 17 A We would -- no, I didn't.</p> <p>03:34 18 Q Okay. Did you have responsibility for</p> <p>03:34 19 implementing training programs on hiring that</p> <p>03:34 20 were designed by their people?</p> <p>03:34 21 A Yes.</p> <p>03:34 22 Q Did you have responsibility for EEO</p> <p>03:34 23 compliance?</p> <p>03:34 24 A Yes.</p> <p>03:34 25 Q Taking a look at Exhibit 5, based on your</p>	<p>03:35 1 be much better at it, I used it all the time. I</p> <p>03:35 2 haven't had the experience with looking at</p> <p>03:36 3 documents from that perspective for awhile,</p> <p>03:36 4 something I may wonder if it's questionable. It</p> <p>03:36 5 may or may not be. I don't know.</p> <p>03:36 6 Q Okay.</p> <p>03:36 7 A I don't have the expertise. I don't feel</p> <p>03:36 8 confident in my expertise right now to make</p> <p>03:36 9 those.</p> <p>03:36 10 Q Okay. Well, earlier, when you were</p> <p>03:36 11 examining the exhibit, you pointed to</p> <p>03:36 12 somewhere --</p> <p>03:36 13 A Uh-huh.</p> <p>03:36 14 Q -- to Mr. Landau. What were you pointing</p> <p>03:36 15 to?</p> <p>03:36 16 A I pointed to "I would like you to decide</p> <p>03:36 17 if you would like to come to work for me assuming</p> <p>03:36 18 I were to offer you the job."</p> <p>03:37 19 Q Why were you pointing to that?</p> <p>03:37 20 A I've just never said that, that was new</p> <p>03:37 21 to me.</p> <p>03:37 22 Q Okay.</p> <p>03:37 23 A I've never seen that dialogue or didn't</p> <p>03:37 24 remember seeing it in Bermuda.</p> <p>03:37 25 Q Do you regard EEO compliance as part of</p>

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